

was before the Eney Commission except that which pertains to bingo.

DELEGATE SHERBOW: All I can say is that I consider the Eney draft one of the greatest accomplishments of our time. I also consider that if we were to follow the Eney draft or the Constitutional Commission Draft blindly without the slightest change, there was no need for us to come here. I also say to you that the President of this Convention in his first address made it perfectly clear that this was to be a guide, a good guide, I think it is an excellent guide, but it is not one that is to be rubber stamped.

THE CHAIRMAN: Delegate Burdette.

DELEGATE BURDETTE: Mr. Chairman, I should like to ask the Chairman of the Committee whether the word "sanction", which appears in the language he is using, means such as permitted or allowed or whether he is using such meaning as conducted directly or indirectly.

If I may amplify that, sir, earlier in your conversation, Judge Sherbow, you gave me the impression that you desired on behalf of the Committee to prohibit the state from conducting a lottery either directly or indirectly. In recent remarks I have had the impression that the Committee's desired prohibition is that no private citizen in Maryland could conduct anything which might be called a lottery.

DELEGATE SHERBOW: Delegate Burdette, let me take it from the beginning. The word sanction, as used in this particular recommendation, is used in the sense of authorize. This is the basis that we adopted. A change to authorize would not be objectionable.

Under the circumstances we felt that the word "sanction" was preferable as being the stronger of the two terms. The word we used was "sanction," but the meaning is in the sense of being authorized.

The second part you asked is whether or not this would mean that the state could not authorize or sanction a lottery but some individual could go out and do it. The answer is no, the State cannot, the local subdivisions cannot, and that which is a lottery would be prohibited.

THE CHAIRMAN: Delegate Burdette.

DELEGATE BURDETTE: The Committee then is using the language "sanction" as if it were to say the State of Maryland and its political subdivisions

shall not allow a lottery to be conducted in this State.

DELEGATE SHERBOW: Or shall not authorize a lottery to be conducted in this State.

THE CHAIRMAN: Delegate Burdette.

DELEGATE BURDETTE: Perhaps that might be an entirely different matter. If the General Assembly should take no action whatever, would the Chairman of the Committee think that the General Assembly is by that inaction authorizing private citizens to conduct a lottery?

DELEGATE SHERBOW: If we take this ban out and the legislature does nothing, I say yes, that would mean that some little town of a thousand inhabitants could proceed with its lottery. Some town with 10,000 inhabitants could proceed with its. The county could. On and on and on.

THE CHAIRMAN: Delegate Burdette.

DELEGATE BURDETTE: I was not speaking to the point of taking the ban out. I was speaking to the point of putting the ban in. And even with the ban in, as I understand your remarks, frankly, I do not understand this point, with the ban in and if the legislature took no action to authorize, would the effect upon private citizens be that private lotteries are banned or not banned?

DELEGATE SHERBOW: Professor, I do not understand your question because, if the ban is in, the legislature cannot take any action allowing a lottery.

THE CHAIRMAN: Delegate Sherbow, maybe the Chair can state Delegate Burdette's question because I do not believe you are answering his specific question. Let me do so with two illustrations.

If the ban is in the constitution as proposed by the Committee, and the legislature were to amend the statute prohibiting gambling so as to make it clear that the statutes did not prohibit a lottery, would this constitutional provision nevertheless prohibit a lottery?

DELEGATE SHERBOW: The constitutional prohibition would prohibit a lottery. The legislature by its definition would have to determine that what it was passing on was not a lottery. If it is a lottery the legislature cannot say we are going to give permission to have a lottery when the constitution says you cannot.

THE CHAIRMAN: This is the whole point of the questions of Delegate Scanlan,